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INTERNATIONAL PRELIMINARY EXAMINATION REPORT  
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference BCS 02-1001	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/10898	International filing date (day/month/year) 01.10.2003	Priority date (day/month/year) 19.10.2002
International Patent Classification (IPC) or both national classification and IPC A01N43/76		
Applicant BAYER CROPSCIENCE GMBH		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 4 sheets, including this cover sheet.  
  
☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
  
 These annexes consist of a total of 2 sheets.

- This report contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  22.04.2004	Date of completion of this report  01.02.2005
Name and mailing address of the international preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer  Fort, M  Telephone No. +31 70 340-4123  

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/EP 03/10898

## I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17):*

### Description, Pages

1-23

received on 22.04.2004 with letter of 22.04.2004

### Claims, Numbers

1-3, 4 (part)

received on 22.04.2004 with letter of 22.04.2004

4 (part), 5-10

received on 16.12.2004 with letter of 15.12.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☒ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

see separate sheet

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/EP 03/10898**

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6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-7
	No: Claims	8-10
Inventive step (IS)	Yes: Claims	1-7
	No: Claims	8-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/10898

**Re Item I**

**Basis of the report**

The newly filed independent claim 8 does not exclude only that subject-matter which is disclosed in the prior art since D2 discloses only formulations comprising as compound (I), 1-halogenaryl-5-ethoxycarbonyl-5-aryl-pyrazolin-3-carboxylate. Furthermore claim 8 does not correspond either to a selection of the aryloxypropionate herbicides having a basis in the application as originally filed. Therefore this report has been established as if the amendments of claims 8-10 filed with the letter of 15 December 2004 had not been made, that is on the basis of claims 1-10 filed with the letter of 22 April 2004.

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

D1= WO 9107874) discloses herbicidal compositions comprising Fenoxaprop-ethyl (compound H) and pyrazoline compounds of formula (I) (compounds 2, 6, 7, 8, 13 and 19) (see D1, table 2). D1 is novelty-destroying for the subject-matter of claims 8-10 (Article 33(2) PCT).

D2 (D2= EP 0 533 057) describes herbicidal compositions comprising an aryloxyphenoxypropionate herbicide (diclofop-methyl, fenoxaprop-P-ethyl...) and a 1-halogenaryl-5-ethoxycarbonyl-5-aryl-pyrazolin-3-carboxylate. D2 is novelty-destroying for the subject-matter of claims 8-10 (Article 33(2) PCT).

The remaining novel subject-matter, claims 1-7, can be considered as being inventive (Article 33(3) PCT) for the following reasons:

The problem underlying the present invention may be seen as that of improving the level of control of certain weed species by aryloxyphenoxypropionate herbicides. The solution proposed in the present application consists in combining said aryloxyphenoxypropionates with safeners of formula (I). The use of safeners of formula (I) in combination with aryloxyphenoxypropionates leads to an increased level of control of certain important weed species such as *Alopecurus myosuroides* which could not be predicted.

The subject-matter of all claims (1-10) is considered to be industrially applicable and the present application is therefore considered

Vorg.

Eing. 10. Mai 2004 PCT

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☐ ablegen

**COMMUNICATION OF THE INTERNATIONAL APPLICATION TO THE DESIGNATED OFFICES**

Dr. Hafer  
11.5.04/om

From the INTERNATIONAL BUREAU

**To:**

**BAYER CROPSCIENCE GMBH**  
**Patent- und Lizenzabteilung**  
**Industriepark Höchst**  
**Gebäude K 607**  
**65926 Frankfurt**  
**ALLEMAGNE**

**Bayer CropScience GmbH**

~~- Datenerhebung -~~

Eingabe: 10.5.04

von:

~~(PCT Rule 47.1(e), first sentence)~~

Date of mailing (day/month/year)  
29 April 2004 (29.04.2004)

Applicant's or agent's file reference  
BCS 02-1001

## IMPORTANT NOTICE

International application No.  
PCT/EP2003/010898

International filing date (day/month/year)  
01 October 2003 (01.10.2003)

Priority date (day/month/year)  
19 October 2002 (19.10.2002)

**Applicant**

BAYER CROPSCIENCE GMBH et al

1. Notice is hereby given that the International Bureau has communicated, as provided in Article 20, the international application to the following designated Offices on the date indicated above as the date of mailing of this notice:

AU, AZ, BY, CN, CO, DZ, EP, JP, KG, KP, KR, MD, MK, RU, TM, US

In accordance with Rule 47.1(c), third sentence, those Offices will accept the present notice as conclusive evidence that the communication of the international application has duly taken place on the date of mailing indicated above and no copy of the international application is required to be furnished by the applicant to the designated Office(s).

2. The following designated Offices have waived the requirement for such a communication at this time:

AE, AG, AL, AM, AP, BA, BB, BR, BZ, CA, CR, CU, DM, EA, EC, EG, GD, GE, HR, ID, IL, IN, IS, KZ, LC, LK, LR, LT, LV, MA, MG, MN, MX, NI, NO, NZ, OA, OM, PG, PH, PL, SC, SG, SY, TJ, TN, TT, UA, UZ, VC, VN, YU, ZA

The communication will be made to those Offices only upon their request. Furthermore, those Offices do not require the applicant to furnish a copy of the international application (Rule 49.1(a-bis)).

3. Enclosed with this notice is a copy of the international application as published by the International Bureau on 29 April 2004 (29.04.2004) under No. WO 2004/034788

- #### 4. TIME LIMITS for filing a demand for international preliminary examination and for entry into the national phase

The applicable time limit for entering the national phase will, **subject to what is said in the following paragraph**, be **30 MONTHS** from the priority date, not only in respect of any elected Office if a demand for international preliminary examination is filed before the expiration of **19 months** from the priority date, but also in respect of any designated Office, in the absence of filing of such demand, where Article 22(1) as modified with effect from 1 April 2002 applies in respect of that designated Office. For further details, see *PCT Gazette* No. 44/2001 of 1 November 2001, pages 19926, 19932 and 19934, as well as the *PCT Newsletter*, October and November 2001 and February 2002 issues.

In practice, time limits other than the 30-month time limit will continue to apply, for various periods of time, in respect of certain designated or elected Offices. For regular updates on the applicable time limits (20, 21, 30 or 31 months, or other time limit), Office by Office, refer to the *PCT Gazette*, the *PCT Newsletter* and the *PCT Applicant's Guide*, Volume II, National Chapters, all available from WIPO's Internet site, at <http://www.wipo.int/pct/en/index.html>.

For filing a demand for international preliminary examination, see the *PCT Applicant's Guide*, Volume I/A, Chapter IX. Only an applicant who is a national or resident of a PCT Contracting State which is bound by Chapter II has the right to file a demand for international preliminary examination (at present, all PCT Contracting States are bound by Chapter II).

**It is the applicant's sole responsibility to monitor all these time limits.**

**The International Bureau of WIPO**  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Authorized officer

Yolaine Cussac

Facsimile No.+41 22 740 14 35

**Facsimile No.+41 22 338 70 80**

$(R^1)_n$  is  $n$  radicals  $R^1$  where the  $R^1$  are identical or different and are each F, Cl, Br or  $CF_3$ ,  $n$  is 2 or 3,  $R^2$  is hydrogen or  $(C_1-C_4)$ -alkyl,  $R^3$  is hydrogen,  $(C_1-C_4)$ -alkyl,  $(C_2-C_4)$ -alkenyl or  $(C_2-C_4)$ -alkynyl, and  $R^4$  is hydrogen or  $(C_1-C_8)$ -alkyl.

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5. The use as claimed in any of claims 1 to 4 characterised in that compound (B) is ethyl 1-(2,4-dichlorophenyl)-5-(ethoxycarbonyl)-5-methyl-2-pyrazoline-3-carboxylate.

10 6. The use as claimed in any of claims 1 to 5, which comprises the active compounds (A) and (B) in a weight ratio of from 1:10 to 100:1.

7. The use as claimed in any of claims 1 to 6 characterised in that the weeds are controlled in crops of useful plants.

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8. A herbicidal combination, characterised in comprising  
(A) one or more aryloxyphenoxypropionate herbicides (A) selected from the group consisting of clodinafop-propargyl, cyhalofop-butyl, fluazifop, fluazifop-butyl, fluazifop-P-butyl, haloxyfop, haloxyfop-etotyl, haloxyfop-P-methyl, propaquizafop,  
20 quizalofop, quizalofop-ethyl, quizalofop-P, quizalofop-P-ethyl, and quizalofop-P-tefuryl, or an agriculturally acceptable salt of afore-mentioned acidic compounds.  
and

(B) one or more compounds of formula (I) as defined in claim 1 or an agriculturally acceptable salt thereof.

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9. A herbicidal combination as claimed in claim 8 characterised in comprising  
(A) one or more aryloxyphenoxypropionate herbicides (A) selected from the group consisting of clodinafop-propargyl, cyhalofop-butyl, fluazifop-butyl, fluazifop-P-butyl, haloxyfop-etotyl, haloxyfop-P-methyl, propaquizafop, quizalofop-ethyl, quizalofop-P-ethyl, and quizalofop-P-tefuryl.  
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10. A herbicidal combination as claimed in claim 8 or 9 characterised in comprising

- (B) one or more compounds of formula (I) in which  
(R<sup>1</sup>)<sub>n</sub> is n radicals R<sup>1</sup> where the R<sup>1</sup> are identical or different and are each F, Cl, Br or CF<sub>3</sub>, n is 2 or 3, R<sup>2</sup> is hydrogen or (C<sub>1</sub>-C<sub>4</sub>)-alkyl,  
R<sup>3</sup> is hydrogen, (C<sub>1</sub>-C<sub>4</sub>)-alkyl, (C<sub>2</sub>-C<sub>4</sub>)-alkenyl or (C<sub>2</sub>-C<sub>4</sub>)-alkynyl, and
- 
- 5 R<sup>4</sup> is hydrogen or (C<sub>1</sub>-C<sub>8</sub>)-alkyl,  
or an agriculturally acceptable salt thereof.